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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

WESTERN HOLDINGS, LLC, a Nevada  
limited liability company,

Plaintiff,

vs.

METABOLIC RESEARCH, INC., a  
Nevada corporation, and DAVID P.  
SUMMERS, an individual,

Defendant.

Case No. 3:13-cv-00440-RCJ-WGC

**[PROPOSED] DEFAULT  
JUDGMENT ORDER ASSESSING  
DAMAGES AGAINST DEFENDANT  
METABOLIC RESEARCH, INC.**

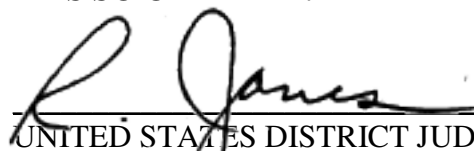
Plaintiff Western Holdings, LLC (“Western”) having filed an application for entry of default judgment against Defendant Metabolic Research, Inc. (“Metabolic”) pursuant to Rule 55 of the Federal Rules of Civil Procedure; the Clerk of the Court having entered Default against Metabolic on November 13, 2013; this Court having granted Western’s motion for default

1 judgment against Metabolic on November 26, 2013; and this Court having held a damages  
2 hearing to assess the damages Metabolic owes to Western on September 26, 2014, it is therefore

3 ORDERED, ADJUDGED, and DECREED that

- 4 1. Metabolic is liable to Western for infringement of U.S. Patent No. 7,074, 812 (“the  
5 ‘812 Patent”).
- 6 2. Specifically, Metabolic’s sales of the product Stemulite infringed Western’s exclusive  
7 licensing rights to use the technology claimed in the ‘812 Patent.
- 8 3. Metabolic is therefore liable to Western in the amount of a reasonable royalty rate  
9 applied to Metabolic’s sales of the infringing product Stemulite.
- 10 4. Based on Western’s exclusive license agreement with the original licensor, 10 percent  
11 is a reasonable royalty rate.
- 12 5. SEC filings indicate that Metabolic’s sales of Stemulite from 2007 to 2010 resulted in  
13 revenue generation of \$9,293,698.
- 14 6. Accordingly, Metabolic shall pay Western 10 percent of \$9,293,698 as a royalty, in  
15 the sum of \$929,369.80.
- 16 7. Metabolic may also be assessed Western’s reasonable attorneys’ fees and costs, to be  
17 determined upon the filing of a motion by Western within 30 days of this Order.

18 **IT IS SO ORDERED:**

19   
20 UNITED STATES DISTRICT JUDGE

21 Dated: September 26, 2014  
22

23 Respectfully submitted:

24 /s/ W. West Allen  
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